

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PATRICK NEIL KINNEY,

Petitioner,

Case Number: 2:08-CV-11248

v.

HON. DENISE PAGE HOOD

B. MCQUIGGIN,

Respondent.

**ORDER DISMISSING PETITION FOR WRIT OF
HABEAS CORPUS WITHOUT PREJUDICE**

Petitioner Patrick Neil Kinney, a state inmate currently incarcerated at the Baraga Maximum Correctional Facility in Baraga, Michigan, filed a habeas corpus petition (First Petition) on March 11, 2008. The First Petition, Case Number 2:08-cv-11044, was assigned to the Honorable Avern Cohn. Almost two weeks later, a virtually identical habeas corpus petition (Second Petition), Case Number 2:08-cv-11248, was filed with the Court and assigned to the undersigned.

The Second Petition, which challenges the same conviction and raises the same claims as the First Petition, is duplicative of the First Petition, and should be dismissed without prejudice. *See* Davis v. U.S. Parole Commission, No. 88-5905, 1989 WL 25837, at *1 (6th Cir. Mar. 7, 1989) (unpublished) (holding that a district court may dismiss a habeas petition when it is duplicative of a pending habeas petition); Marks v. Wolfenbarger, No. 2:06-cv-14325, 2006 WL 2850340, at *1 (E.D. Mich. Oct. 3, 2006) (same); Fuson v. Harry, No. 06-13211-BC, 2006 WL 2421639, at *1 (E.D. Mich. Aug. 22, 2005) (same).

Accordingly, the Court **ORDERS** that the petition for a writ of habeas corpus be
DISMISSED WITHOUT PREJUDICE.

Further, the Court **ORDERS** the Clerk of Court to provide Plaintiff with a refund of the
\$5.00 filing fee paid in the instant case.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: May 2, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record
on May 2, 2008, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager